

A

LETTER

From an Old COMMON-COUNCIL-MAN
to one of the New Common-Council for this present
Year 1682. for this Honourable City of London.

SIR,

YOUR First business (as of all such Courts) is wont and ought to be an Enquiry into the *Qualifications* of the *Elections*; else to make *Laws*, before you know whether you are the proper Persons that are Lawfully Elected to make them; will but *invalidate* all you do, if it shall appear that there are any considerable Number among you that are not duly *Qualified*.

Now the *First* Enquiry of *Qualifications* in Common-Council uses to be, Whether there be any that are not *Qualified* as the Law requires, and if they be *suspected* and *named*, they may be questioned as far as the Court thinks fit; and if not *Qualified* as by Law they ought, then they are to *withdraw*, as was the case of some worthy Members in Sir Robert Clayton's Year.

The *Second* Enquiry of *Qualification* (especially if there be any Objections or Petitions) is to look into all *Undue Elections*, and to appoint a *Committee* to hear the Complaints, and make *Report* to the Court, and then pass such Judgment upon those Elections, as to that Court shall seem just and right.

Under this *Head* there may possibly some Disputes arise touching the *Power* of determining the Right of Election, whether it rest in the Lord Mayor singly, or Mayor and Aldermen jointly; or in each Alderman in his several Ward, or in the Inquests of the several Wards, or in none of them definitively, or whether the sole Power be not in this very Court it self, jointly made up of Lord Mayor, Aldermen, and Common-Council men in Common-Council Assembled: Touching which Debates I here offer you my thoughts; thus; When the King Issues out his Writ for Choice of *Parliament-men* once, I never knew any *City*, *Corporation*, or *County* come to the King to complain of *Undue Elections*, and pray a *New Writ*; either before or after the Sheriff hath made his *Return*; but the Cities, Corporations, or Counties that are agrieved, go to the *Parliament* only, and to no Court or Person else whatsoever, to have Relief according to the Merits of the Case; and there and no where else Justice is done.

Why then should not these *Greater Lights* rule the lesser, and be Precedents for the Common-Council of the Great Metropolis of England, whose Proceedings influence (many times) all the other Parts of England in some Affairs?

Why shall any lessen your Right by *Petitioning* or *Receiving Petitions* from any of your Wards in matters legally determinable no where but by this Court? I am of Opinion, that when once my Lord Mayor hath issued out his *Precept*, he hath done all that he is to do in the Case: And that my Lord Mayor singly, and my Lord Mayor and Aldermen jointly, are bound up by the Returns of every *Inquest* of Sworn men, who do make their Returns upon their *Oaths*, according to ancient Custom, the Monday after *Epiphany*, and not before: And my Lord Mayor either singly or jointly with the Aldermen hath no power to alter the Return of any one Member after the Inquest have delivered it upon their *Oaths*, under their Hands and Seals Indented.

How unwarrantably have those acted then who have desired *New Precepts* for New Elections, and determined old Elections before the Inquest have made any *Return at all*? For the Return from the Inquest of the Names of Common-Council-men duly Chosen in every Ward, is as Natural and as Customary and Legal a way for Return of Common-Council-men to serve in Common-Council for this City, as the Return of Members to serve in Parliament for England, for the several Counties is legally by the Sheriff's Return under their Hands and Seals, and no other ways whatsoever. For both are done by *Indenture*.

Therefore you are obliged to maintain the Power of the Common-Council, to determine the Right of the Returns of the Elections by your *Inquests* as well as the Parliament do maintain this Right of determining Elections tho' chosen by the Kings Writ, and Returned by the Kings Sheriff. Else if you yield this Right to a Lord Mayor singly, or Lord Mayor and Court of Aldermen jointly. Then you give the Lord Mayor and Aldermen a greater Priviledge than his Majesty claims or exercises.

Another *Qualification* that may come in question before you, is whether the Elections in some Wards were made by such Electors as have Right of Electing? It is objected, that the Election in some Wards was over-ruled by the Votes of *Unfree-men*, and by the Votes of such as pay no Scot, nor bear no Lot; and by the Menaces of Officers, &c. whereby the Inhabitants were over-aw'd, and not left free in their Election as they ought to be.

In such Cases, there ought to be a new Election in such Wards, or at least a Remedy provided against it for the future: For these Three things are not only contrary to Reason, Equity, and the Interest of the City, but also positively against an express Declaration of *Common-Council* made long since, and still *unrepealed* and in full force; (being part of a Report from a Committee appointed to examine some *Questions* that then arose about Elections of *Common-Council*, and which was *Confirmed* by *Common-Council*.) Which I here recite *Verbatim*, as far as it relates to this Matter: *viz.*

That the Number of Common-Council-men which are or shall be appointed for each Ward in this City, ought to be all FREELY Chosen every Year in the Wardmote, by such Inhabitants of the several Wards respectively who are FREE-MEN of this City, and do pay SCOTT and bear LOTT, and by the greater Number of them, and not otherwise.

Consider well of this *Ancient Precedent*, and do that which shall be found fit for future Regulation.

For if you admit of *Unfree-men* to be Electors, the Consequence may be this; Such *Unfree-men* will undoubtedly incline always to chuse such as shall favour *Unfree-men* in all the Laws that are made; and so in time this may Increase their Party to so great Number in *Common-Council* as may level all your *Priviledges*, and render *Unfree-men* equal to the *Free-men*, may Perhaps set up themselves, and then Vote all *Free-men* out: As I understood was the Case of the City of *Dantzick* in the *Baltick Sea*. The Government of that City had been in Hands only of such *Majestates* as were the *Calvinists*. But the Sect of *Lutherans* increasing and growing Rich, the *Lutherans* Petitioned the Government that there might be One or Two of their Opinion admitted into the Council of *Majestacy*, but the *Calvinists* strenuously opposed it as *Dangerous* if not *Impious*; and so the *Lutherans* were for a long time kept out. Yet as last the *brisk Sons* of the *Calvinists* being Inamoured with the *Beautiful Daughters* of the *Lutherans*, fell by Legal Matrimony into their Nuptial Beds, and then made Interest to get one *Lutheran* into the Government, then Two, at last the *Majority*, and then they quickly Voted the *Calvinists* should no more be Elected; and so the Government fell wholly into the *Lutherans* Hands, and hath ever since continued to the Exclusion of the *Calvinists*. The fatal Consequence whereof, hath been this, that the *Animosities* between the *Lutherans* and the *Calvinists* made way for the *Papists* so far, that at this day the *Papists* have as many Churches in that Renowned City as the *Lutherans*: Oh sad fate of Divisions among Protestants! But my Curiosity leading me to inquire into the true Reasons how the *Papists* prevail'd and got ground so fast: I was informed that.

The *Calvinists* holding a real *Sacramental Presence* in the Sacrament as we in *England* do came nearest to the Primitive belief of the Protestant Religion, as was used in *England*.

The *Papists* holding *Transubstantiation* in the Sacrament, which is most remote from the true Primitive Opinion of Protestants.

And the *Lutherans* holding *Consubstantiation* in the Sacrament, which came nearer to the *Papists* Tenets than the *Calvinists* Opinion did; and also the *Lutherans* abounding in Ceremonies as the *Papists*, for the *Lutherans* have Altars and Candles at their Altars as well as the *Papists*, (only the *Lutherans* Candles are not lighted, and the *Papists* Candles are lighted) Now the *Lutherans* coming so near the *Papists* in Opinion and Ceremonies, and having a Multitude of such Ceremonies, as the *Papists* have. These things the People of that City report were the occasion of altering the Religious part of their Government: And the Reason why the *Lutherans* inclined to the humour of the *Papists*; was partly to get the upper-hand of the *Calvinists*, and partly because their Ceremonies were so near akin to the *Papish* Ceremonies: Thus we see the sad Effects and Consequences, and the imminent Danger that may be feared from such whose Opinion or Ceremonies in Religion, border too near upon the *Papish* Tenets, They will rather favour Popery to their own ruine, than tolerate their Protestant Brethren that differ from them in their Ceremonies.

My design is not to compare our Religion in *England* with theirs of *Dantzick*; nor to Examine with what expence of Blood in Flames of *Martyrdom*, our Ancestors in *England* purchased our Reformation from the Superstitions (if not *Idolatrous*) Rites and Ceremonies of the Church of *Rome*: Nor is it my business to inquire how far our Ceremonies in *England* do differ from some of those that are practis'd by the Whore of *Babylon*: No, no, I leave Church-matters to Church-Men, for I am one of the Church of *England*, as *Establish'd by Law*: And therefore I leave that matter till the Law shall think fit to alter it by King, Lords, and Commons.

I only aim from my Observations of the alteration made in the Religious part of the Government of that City: To draw some advantage to the Civil part of Government of this Renowned City of *London*, in the *Common-Council*, whereof Sir, you are newly chosen a Member: And to prevent a loss of all those great Priviledges and Immunities which this City of *London* for Ages hath flourishingly enjoyed, as a lover of this City, whereof I have the happiness to be a Member, I could not forbear to Caution you of the great danger you may be in of losing all that belongs only to *Free-men*, if you admit *Unfree-men* to be Electors of such who are to serve in *Common-Council*: Remember *Dantzick*, *Felix quem faciunt aliena pericula cautum*.

The Business of a *Common-Council* is to make Laws against the Interest of *Unfree-men*, and for the benefit of *Free-men*; and to take care for securing the Orphans Estates in the Chamber of *London*, where no *Unfree-mens* Childrens Estates can be Deposited: And this City Chamber hath for Ages been the best security in the World for Orphans Portions, no History can tell you of

of Orphans that lost their Estates in the Chamber of London, and next to God I attribute it to this, that *Free-men* being *Common-Council-men*, have in all Ages made it their Care to fortify and secure their own Estates to their Orphans and their Posterities.

But all that they have been so many Ages a doing, may be *undone* at once; If you let but one *Unfree-man* into the Elections, the president of one *Unfree Elector*, may be a president for Two, for Two hundred, and so at last Vote all *Free-men* out of the Election: Therefore once again I say, remember *Dantzick*.

It may be objected, why then are all Inhabitants summon'd to the *Ward-Mote*?

I Answer, it is the duty, of all Inhabitants, *Free*, as well as *Unfree*, (at least once a year, for it is but once a year that they are summon'd) to appear before the Alderman, and Common-Council of each Ward, if for no other Reason, yet this may be one, that notice may be taken who is *Free*, and who is not.

But suppose it be further objected, they are Inhabitants, and have they not Right to chuse Officers? Yes, all Inhabitants *Free* and *Unfree*, have a Right by Law to chuse *Constables* and *Scavengers*, (which latter are but a kind of *Surveyors of the High-Waies*.) The reason is this, because every Inhabitant has a Right to the *Peace* that is to be kept by the *Constable*: And every one has benefit by the Conveniences of the *High-Waies* that are to be kept by the *Surveyors*; And *Constables*, and *Surveyors of the Waies* are Officers which the Law all over *England* takes notice of, does appoint and direct, and the Law, the Common and Statute Laws of the Land directs them their Duties; But *Common-Council-men* are not appointed by any *Statute* or *Common Law* of the Land, but by the special Custom and Laws of the *City*, Enacted as Laws of the *City*, made in *Common-Council* of the *City*; and what have *Unfree-men* to do with choosing such as are not chose into Office, by the general Law of the Land, but by the particular Law of the *City*? And if you read the Determination of the *Common-Council* before cited, you shall find there, that it does only prescribe who shall be Electors of *Common-Council-men*, it expressly Limits the Choice only to *Free-men*, and to such *Free-men* only as pay *Scot*, and bear *Lot*, and that this Choice shall be *free*.

Therefore keep to your own Laws, *Free-men*, such as pay *Scot* and *Lot*, must be the sole Electors; and the Elected must be freely Chosen; do not let *Unfree-men* into the Election as ye tender all your Priviledges. Do not admit such for Electors as only pay *Scot*, and will not bear Offices, which I take to be the Genuine meaning of bearing of *Lot*.

You have many plead *Patents*, and will bear no Office, not so much as be a *Collector* of a *Tax*, though for the *King*, from whom they have their *Pattent*; shall these chuse whom they please to be their *Asses* to bear their Burdens?

And then that the Choice may be *free*, don't let a Captain or any Officers stand and overawe Men, either not to come except they Vote for them or their Associates, or to threaten if they Vote against them, then O Sir, you Come with a Pike, I will make you bring a Musket, and to another, O you bear but half an *Arms*, you shall find a whole Man, &c.

To prevent these *Abuses*, where it is found, you may order a *balloting Box* if demanded, this will prevent *Heats* and preserve *Love* among Neighbour-hoods, for then it cannot be known who is for, or who is against any Man.

In the next place, I remember that at the first *Common-Council* that shall be holden in in *February* Annually, you are to chuse a Committee to manage your Rights of *Fishing*, and other Priviledges at *London-Derry* in *Ireland*: this is to be done, or your Priviledges there are in danger of being lost, if you do not chuse such a Committee.

But I remember in Sir *Roberts Viners* time, we hazarded the loss of all those *Irish Affairs*; rather then to lose our Rights at *London*; and it was upon this occasion; There was a Judges place then vacant in the *Sheriffs Court*: and the Lord Mayor had put in one *pro tempore*, and great disputes hapned between the Lord Mayor and *Common-Council*, whose Right it was to chuse: The Lord Mayor would fain have put it off and go to Election of the Committee for the *Irish Affairs* in the first place. but the Court of *Common-Council* then prudently suspecting that when that business was done, the Lord Mayor might take up his *Sword* and be gone, and so dissolve the Court, refus'd it.

I remember the Lord Mayor to induce them to settle the Committee, first, urged the danger of the loss of all their Concerns of *London-Derry*, if they did not Chuse their Committee at that time: but a worthy Member wisely replied, we had rather lose our Rights at *London-Derry*, then lose so great a Right in *London*, as the Election of a Judges place, for the *Sheriffs Court*, is.

And the very like case may happen to come before you this year, for a Judges place is now also void in the *Sheriffs Court*, by the Death of Mr. *Simpson*.

Therefore maintain the Right of the *Common-Council* to Elect a Judge to sit there: For it is undoubtedly your Right to Chuse one.

And then be sure Chuse a wise sober man, and a good Lawyer; and one that does understand the *Practices* of the Court: You are not limited to any Body in a *Biggin*; you are free to chuse whom you please. But have a care of such a Complement from the Chair, as this, *Gentlemen*, I allow that your Election is free, But I recommend such a one to you, who I think is the fittest man; and then some of your own Members, that design to Betray your Rights, may perhaps stand up with the second Part to the same tune, and wheedle further thus, *Gentlemen*, seeing the Chair does not insist upon it as a Right, as some of his Predecessors have done, but leaves it to us, pray let us gratifie the Chair, being filled with so Honourable and Worthy a Person, and let us shew our Respect to the Chair, by chusing this Man, or one of those Men named by the Chair, and yet our Right will be preserved, because Chosen by us.

To such I would answer, That for my part I pay as great Honour and Respect to the Person in this Chair, as ever I did to any of his Predecessors: But this talk of Gratifying the Chair, may

be a new way of SELLING the Place to One, Two, or Three, from whom the Chair may have a Promise of a Gratification (as they call it) for only Naming them by the Chair, in hopes you may be wheedled to Chuse One of those that the Chair seems to recommend to you.

Therefore beware of these men that seek to get the place This Way, for besides that it is a direct Violation of a Statute in force, he that will directly or indirectly Buy a Judicial Place will Sell Justice, Therefore to prevent those Under-hand Practices (which are too often used) and to dash all Recommendation of others by Letters, let your Choice be only of such a man as is Nominated by Your Selves, and by no body else whatsoever; and then your Voluntary Free-Choice will be an Obligation on him, and it will be a Satisfaction to all People that shall come to your Sheriffs Court for Justice, when every body may hear and know that the Judge that sits there, did not purchase his Place, nor came to it by the Recommendation of any Great Man, nor by Nomination of the Chair, nor by any kind of Fraud or indirect Means, but by his own Just Merit and fitness for the Place, and by the Free (Nomination as well as) Election of Your Selves.

Then will People be satisfied that they shall have Justice from such a Judge, who obtains his Place by Merit and not by Money; which will bring both Profit and Honour to your City Courts, for Men need not despair of having Justice that have Right on their sides.

Suspect all those Men, that would tempt you to Gratify the Chair, lest they may have some private end. For you may hazzard your future Right, by such gratifying, or paying such respect to the Chair now. For if you chuse any Man now, upon such suggestions of Respect, &c. to the Chair, then you give ground, for the future for the Chair to claim the same Respect; and it will be a disrespect to deny it to every one in the Chair hereafter; and so in time the Point may be gained from you, that the Right is in the Chair to Elect, as you know of late one did pretend, and perhaps he had no better ground, but only because the Chair had that Respect formerly allowed it.

In truth, this Respect (as it is called) may be suspected would never have been expected from you, but that some Perquisit hath usually attended the Chair therewith directly or indirectly before or after, yea sometimes there have been Benefits (not to say Money) given for the Place, which perhaps the Chair hath not directly known of, as when Wife, Children, Relations or Friends have been underhand dealt withall.

Therefore, the surest way to prevent all Indirect practises, is to chuse one nominated by Your Selves, which pray remember as an especial Maxim.

Another thing I would mind you of, is, the Quo Warranto that is talked of; I cannot tell what the full Intent of that Quo Warranto may be; but be sure to take care of the Committee, that shall be chosen to manage your Defence, lest you chuse such, who instead of making Legal Defence, may out of pretence of a sort of Zeal, join and yield up what they are Commissioned by you to Assert and Maintain.

Also, pray have a care of the old wheedle, that may be set on foot, as formerly was done by a notable Gentleman, when the Court was (as you may remember) upon Petitioning for Sitting of the Parliament: And Arguments were offered for, and against it. One Argument that Worthy Person then urged, was thus. Oh there is a Quo Warranto against the City already, about the WEIGHING and WATERBAYLIGE. And there is a Verdict against the City thereon, in favour of the Unfreemen that have got the QUO WARRANTO in the Kings Name, and they are just ready to enter up JUDGMENT against the City. And this may be a loss of a good Revenue, which the City makes by those Duties. Therefore, said that Worthy Person, O do not trouble the Court at this time by Petitioning, and I hope we may get the King to grant a Noli Prosequi, and so stop Judgment. And this did work so far on you at that time that you did not Petition, and it is true there did follow a Noli Prosequi. But you will never be without Quo Warranto's, if there may be such use made of them. But when they shall see they are vigorously Defended by Law, those Devices will vanish. Perhaps you may now again hear of such another business, to Bug-bear you into something, I know not what: But possibly it may be to surrender your Charter, and you may be told you shall have a better. But I hope you will have a care, and not part with the Old before you are sure of a (New and one that is) better.

For I am sure you cannot have a new one that is better, before you have a Parliament: For THIS you have already, is confirmed by several Acts of Parliament: Therefore to all such Motions of laying down the Old in hopes of a Better, I say only this: Yes, Sir, as soon as we see a Parliament sit, that can confirm a better, then it will be time enough to think of laying down of this, in hopes of a better, but not till then. — No, no, defend this you have by all Legal ways, and part with nothing but what the Law forces you unto.

Suppose any one single Branch can be taken from you, keep the Rest: If a forfeiture of a single Branch or Two should be pretended, yet you cannot forfeit the whole.

You have Proviso's in your Charter, that a Miscarriage of a Mayor or Sheriff, or Misuser or Abuser shall not forfeit the whole.

In a word, nothing but your own Act of Common-Council can Cancel your Charter, and if you do pass any such Act, then your own Memories ought for ever to be Cancelled and forgotten, for every thing, except for perpetual Disgrace and Infamy.

D. N.